

STAFF REPORT

**WAIVER OF REPORTS OF WASTE DISCHARGE AND
WASTE DISCHARGE REQUIREMENTS
FOR SPECIFIC TYPES OF DISCHARGE
WITHIN THE
CENTRAL VALLEY REGION**

INTRODUCTION

Section 13263 of the California Water Code (CWC) requires that the Regional Board prescribe discharge requirements for waste discharges that may affect waters of the state. The affect of some of these waste discharges, by virtue of waste constituent, constituent concentration, and constituent control, however, can be effectively mitigated to have little or no affect on the quality and beneficial uses of waters of the State.

Section 13269 of the CWC allows waiver of waste discharge requirements and reports of waste discharge for specific types of discharges where a waiver is not against the public interest. Such waivers are conditional and may be terminated by the Regional Board at any time. The Regional Board has waived several types of discharges in accordance with section 13269 for two decades. However, as Senate Bill 390 amended section 13269 to cause all Regional Board waivers to expire on 1 January 2003, it is necessary that the Regional Board take action at a public hearing on any waivers it wishes to continue in effect. The one exception is septic tank/leachfield systems as subsequent legislation extended waivers affecting these systems to 30 June 2004.

Existing waivers are summarized in the water quality control plans for the Sacramento River, San Joaquin River, and Tulare Lake Basins but implemented by resolutions adopted pursuant to CWC section 13269 independent of the basin planning process. Action to continue particular waivers is a permitting and not a basin planning activity.

Certain types of discharges currently waived have been and will be considered by the Board separately due to their complexity and potential controversy. The purpose of this staff report is to support action to renew waiver authority for simple, noncontroversial waste discharges. It is in the best interest of the public and this Board not to expend inadequate and finite resources on regulating low-risk discharges that, when designed and operated to meet pre-set conditions, will have insignificant potential to affect water quality or create nuisance.

BACKGROUND

With the adoption of Resolution No. 82-036 in 1982, the Regional Board waived waste discharge requirements for twenty-three specific types of discharge provided they met conditions stipulated in the Resolution. The Regional Board has since adopted individual resolutions waiving other specific types of discharges, but these individual actions involve discharges where mitigation measures or other factors make them more complex or controversial. These individual waivers are being reviewed separately where staff believes a continued waiver appropriate (e.g., pesticide applicator facilities). The specific types of discharges conditionally waived by Resolution No. 82-036 are:

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Type of Waste Discharge	Limitations
1. Air conditioner, cooling and elevated temperature waters	Small volumes which will not change temperature of receiving water more than 1°C.
2. Drilling muds	Discharged to sump with two feet of freeboard. Sump must be dried by evaporation or pumping. Drill-mud may remain in sump only if discharger demonstrates that it is nontoxic. Sump area shall be restored to pre-construction state within 60 days of completion or abandonment of well.
3. Clean oil containing no toxic materials	Used for beneficial purposes such as dust control, weed control and mosquito abatement where it cannot reach state waters.
4. Minor dredger operations	When spoil is nontoxic and discharged to land.
5. Group 3 [inert] solid wastes	Good disposal practices.
6. Test pumpings of fresh water wells	When assurances are provided that pollutants are neither present nor added.
7. Storm water runoff	Where no water quality problems are contemplated and no federal NPDES permit is required.
8. Erosion from development	Where Best Management Practices (BMP) plans have been formulated and implemented.
9. Pesticide rinse waters from applicators	Where discharger complies with Board guidelines.
10. Confined animal wastes	Where discharger complies with Board guidelines.
11. Minor stream channel alterations and suction dredging	Where regulated by Department of Fish and Game agreements.
12. Small, short-term sand and gravel operations	All operations and wash waters confined to land.
13. Small metals mining operations	All operations confined to land, no toxic materials utilized in recovery operations.

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Type of Waste Discharge	Limitations
14. Swimming pool discharges	Where adequate dilution exists or where beneficial uses are not affected.
15. Food processing wastes spread to land	Where an operating/maintenance plan has been approved.
16. Construction	Where BMPs used.
17. Agricultural commodity wastes	Small, seasonal and confined to land.
18. Industrial wastes utilized for soil amendments	Where industry certifies its nontoxic content and BMP Ag applications used.
19. Timber harvesting	Operating under approved plan.
20. Minor hydro projects	Operating under water rights permit from State Water Resources Control Board or Fish and Game agreement and no water quality impacts anticipated.
21. Irrigation return water	Operating to minimize sediment to meet Basin Plan turbidity objectives and to prevent concentrations of materials toxic to fish or wildlife.
22. Projects where application for Water Quality Certification is required	Where project (normally minor construction) is not expected to have a significant water quality effect and project complies with Fish and Game agreements.
23. Septic tank/leachfield systems	Where project has county permit and county uses Board Guidelines.

The amendments to CWC section 13269 by SB390 require that the Regional Board review the terms of waiver for each type of discharge and consider whether individual or general waste discharge requirements would be a more appropriate form of regulation than continuing the waiver. In fact, the amendments require this reevaluation and renewal of each waiver at least every five years or the waiver automatically terminates.

The amendments to CWC section 13269 also specifically state that the Regional Board shall require that dischargers comply with waiver conditions when a waiver is granted. SB390 amended CWC section 13350 to add direct authority for assessment of administrative civil liability for failure to comply with

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conditions of a waiver where the intent or neglect of the discharger creates a condition of nuisance or pollution. Legislative intent is greater accountability from those who receive a waiver of waste discharge requirements.

Staff has apprised the Regional Board periodically of how the waiver review effort in general is being managed. Regional Board workshops have been held concerning waivers and alternate actions on specific types of discharges (e.g., irrigation runoff, timber harvest).

This proposed action concerns only discharge to land. Specifically, it is limited to discharge types whose impacts can be fully mitigated with little Regional Board oversight, as determined by past effectiveness and the need to balance regulatory oversight with resource funding. The proposed action would conditionally extend waivers to 31 January 2008. The staff report also addresses discharge types where staff believes the waiver should lapse because an individual or general waste discharge requirement is more appropriate. For these types, no renewal action is proposed.

GENERAL

Because the Regional Board now conducts and will continue to conduct business with resources significantly less than those needed to regulate all waste discharges, it is prudent to focus on discharges based on risk of impacting water quality. This reflects the general strategy behind grouping discharges by threat to water quality (TTWQ) and by complexity, the criteria on which proportionate filing fees are based. Some waste discharges normally of low threat (TTWQ3) and complexity (a “C” as opposed to an “A” or “B”) may naturally be or may be modified to be of little or no impact to water quality.¹

The need for greater accountability of waived discharges with a maximum five-year lifespan also forces consideration of resources to handle the workload. If reports of waste discharge (RWD) are waived (CWC section 13263), there is no fee whatsoever to compensate the Regional Board for staff costs associated with administering the waiver. If waste discharge requirements (WDRs) are waived based on project details in a RWD, there is a one-time fee associated with processing the RWD but any balance in excess of actual staff costs is by law refundable. Subsequent fees at five-year intervals when the waiver is up for renewal are possible, but not established by regulation. In contrast, fees for a low complexity discharge of TTWQ3 regulated by WDRs generates \$400 annually, requires some degree of regular reporting, and has a goal of review of WDRs only once every 15 years with staff discretion as to whether a formal update is necessary. As staff program resources allocated to the region were about 15% of projected needs until two years ago and have now resumed that level, WDRs are in practice updated when revision is dictated by the circumstances and not by periodic review. Over one-third of all WDRs are currently overdue for staff review and update.

In weighing the threat of water quality and nuisance conditions versus administrative workload, it becomes evident that waiver of RWDs should be limited to discharges that are by character of negligible threat to water quality even if mishandled and with which success of the waiver policy can be judged by exception. It is also evident that waiver of WDRs should be limited to TTWQ3 discharges whose character, duration, or magnitude represent very low threat and whose complexity is so simple that it is a

¹ TTWQ3: Discharges having no waste treatment systems or that must comply with best management practices, discharges having passive treatment and disposal systems, or dischargers having waste storage systems with land disposal.

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completely passive or self-sustaining process. Compliance can be evaluated by means of spot inspections and infrequent self-monitoring to generate information necessary to evaluate effectiveness of the waiver five years hence. Low-threat discharges failing to exhibit such fail-safe qualities would be best regulated with a general order. Waivers will be tracked by means of SWIM, the statewide database.

Discharges of the types waived by the proposed resolution with a TTWQ and complexity greater than 3C are not recommended to be eligible for waiver of either a RWD or WDRs. Accordingly, the appropriate filing fee to accompany submission of a RWD for consideration of a waiver would be the fee for 3C.

ANNUAL REPORT REQUIREMENT

The proposed Resolution requires the submittal of reports as directed by the Executive Officer. The reports would represent the minimum reporting threshold to monitor compliance with waiver conditions and provide data for consideration of renewal of the general waiver.

EFFECTIVE WASTE MANAGEMENT PRACTICES

A condition of waiver for several types of discharge is implementation of effective waste management practices (EWMPs). The set of possible EWMPs for each specific type of discharge is large. Further, EWMPs are typically site-specific and should change with time as new standards and information from industry-specific studies and practices become available. In the context of this waiver, EWMPs refer to the set methods, measures, and practices employed by a particular industry to limit potential impacts to water quality. Examples include schedules of activities, prohibitions of practices, maintenance procedures, and other management practices.

WAIVERS TO BE CONTINUED

The following describes each type of discharge and its relative threat to water quality and of nuisance, and how the threat has been and can continue to be mitigated. Under the proposed conditions none of the discharge types proposed for continued waiver represent a source of significant degradation of groundwater or of nuisance.

1. AIR CONDITIONER, COOLING AND ELEVATED TEMPERATURE WATERS

Wastewater generated from air conditioning, cooling, or refrigeration systems are collectively referred to herein simply as cooling water. Cooling water may be contact or noncontact. Non-contact cooling water does not contact any raw material, intermediate product, waste product, or finished product.

The existing cooling water waiver has typically been applied to agricultural support facilities that generate large quantities of cooling water, specifically packinghouses and produce distribution facilities. Contact cooling water is generated from hydro-coolers at packinghouses that rapidly cool down whole fruits and vegetables by submerging them in chilled water. Non-contact cooling water is generated from cooling and refrigeration systems.

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Hydro-cooler water contacts fruit and vegetables and typically results in a discharge characterized by a low biochemical oxygen demand (BOD). Non-contact cooling water may have low total dissolved solids (TDS) if condensate from air conditioning systems, or TDS greater than in source makeup water due to the evaporative process. Noncontact cooling water can contain metal concentrations from the piping. Chlorine and other chemicals may be added to the noncontact cooling water to control scaling. Cooling water discharges that can be proven to be relatively free of waste constituents and otherwise of relatively low risk of degrading groundwater should continue to be waived.

CONDITIONS OF CONTINUED WAIVER

The waiver of WDRs for cooling waters should be continued with the following conditions:

- Waste constituent concentrations cannot be greater than in the uppermost underlying groundwater, and are reliably attenuated before infiltrating to groundwater
- Rate and volume of discharge must be easily contained on-site
- BOD must be consistently less than 30 mg/L without treatment and, if impounded, cannot create a loading rate greater than 10 #/acre/day
- Additives, if any, must be used in accordance with manufacturer's guidelines and capable of being easily attenuated

2. DRILLING MUDS

Thousands of wells are drilled within the region annually. Many require the use of drilling mud during the drilling process that generally lasts a matter of days to weeks. Drilling mud can consist of formation fines and water, but typically consists of bentonite clay mixed with water or a non-toxic mineral oil. Drilling mud helps control the well drilling process. The liquefied soil and rock cuttings from the well, along with any bentonite, are commonly contained in a portable tank, but can be contained in a sump, during drilling. The use of a sump during drilling and ultimate disposal of drilling muds, whether in the sump or elsewhere, is the discharge of waste at issue.

A wide variety of drill mud additives may be employed to handle specific situations encountered during the drilling process. The existing waiver requires that the discharge be nontoxic and that the sump have specific freeboard during use and that the contents be dried before burial.

Nonhazardous waste does not in itself assure degradation of groundwater will be prevented or controlled consistent with water quality policies. However, the high clay content retains water and the fines in suspension generally seal the sump invert. Water content is evaporated with insignificant leaching during the short active life of the sump, with no leaching potential thereafter. As long as certified laboratories demonstrate drilling muds to be nonhazardous, the sump can be covered and graded to the original pre-construction state. Various private analytical laboratory staff, when queried, indicated they knew of no drilling muds that tested hazardous. Containment within the sump while active and burial thereafter precludes a threat to surface water. There have been no reported instances of groundwater or surface water problems attributable to the disposal of drilling mud in sumps.

Drilling muds without elevated concentrations of waste constituents have been used to line water supply reservoirs that are situated on permeable soils, helping to conserve water supplies and energy.

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CONDITIONS OF CONTINUED WAIVER

The waiver of RWDs and WDRs for drilling muds should be continued with the following conditions:

- Drilling mud additives must be nonhazardous as defined in Title 22 California Code of Regulations (CCR), Division 4.5, Article 11
- Buried drilling muds must first be dried then the site restored to pre-sump conditions
- Sump design must assure no overflow of drilling muds during active drilling

4. MINOR DREDGE OPERATIONS

Dredging is performed during bridge replacement and construction projects where pilings and abutments must be placed in a stream channel and in water storage reservoirs when storage capacity needs to be restored or increased. For navigable waterways, the dredging itself is regulated by the Corps of Engineers under section 404 of the Clean Water Act, though the Regional Board must certify a 404 permit as consistent with the Basin Plan. The discharge under consideration for waiver is the discharge of dredged material to land.

Substrate materials are typically composed of cobbles, gravel, sand, silt, and clay. Stream and lakebed sediments contain contaminants reflective of past and present land use practices in the watershed. For example, large-scale placer mining of gold-bearing rivers in the Sierra Nevada involved dredging substrate materials and use of mercury in the gold extraction process. Some mercury was left behind in the tailings discarded above the banks of the mined streams. In many cases, mercury from the tailings re-entered stream channels and settled into the substrate materials by adhering to silt and clay particles. Metals in storm water runoff may also settle into the stream sediments by adhering to substrate particles. Pesticides from agricultural runoff and return water are present in some stream sediments.

Small-scale (minor) dredging projects, generally a project of 1000 cubic yards or less, are of short duration and when discharged in a controlled manner to land pose little threat to groundwater quality if essentially free of contaminants. Dredged material must be nontoxic and discharged to land where it will not erode or deposit sediment into any surface waters or storm drains. Larger projects or projects with constituents that have greater potential to cause degradation of surface or groundwater are best regulated with a general or individual waste discharge requirements.

Applications for waiver under the minor dredging category need to include a description of past and present adjacent and upstream land uses. If there is evidence or uncertainty that potentially hazardous materials may be present in the dredged material, the application must include a chemical analysis of the fine (silt and clay) portion of the substrate material for the constituent(s) of concern.

For non-navigable waters, minor dredging projects must only occur when the water body is dry or while flows are diverted away from the project area. For navigable waters, the minor dredging project must qualify for water quality certification, the existing condition for waiver of WDRs.

CONDITIONS OF CONTINUED WAIVER

The waiver of WDRs for minor dredging projects should be continued with the following conditions:

- Amount of dredged material discharged must be 1000 cubic yards or less
- Discharged dredged material must be fully contained on land
- Discharged dredged material cannot contain waste constituents in hazardous concentrations as defined California Code of Regulations, Division 4.5, Article 11

5. SOLID WASTES

Resolution No. 82-036 conditionally waived waste discharge requirements for the discharge of “Group 3 solid wastes.” In 1982, regulations defined “Group 3 solid wastes” as “non-water soluble, non-decomposable inert solids.” In 1984, Group 3 solid wastes became “inert wastes” with a broader definition, which is in Title 27, California Code of Regulations, section 20005 et seq. (Title 27). Basin plan descriptions of Resolution No. 82-036 translated the waived type of waste from “Group 3 Solid Wastes” to “inert solid wastes.”

Section 20230(a) of Title 27 defines “inert waste” as “that subset of solid waste that does not contain hazardous waste or soluble pollutants at concentrations in excess of applicable water quality objectives, and does not contain significant quantities of decomposable waste.” Section 20230(c) indicates individual or general waste discharge requirements for discharge of inert wastes are optional, but in itself is not a waiver. The inert solid waste category exists because some solid wastes do not need Title 27 containment to assure adequate protection of groundwater quality. Inert waste must still be disposed of in a manner consistent with water quality plans and policies.

The waiver authorized by Resolution No. 82-036 is restricted to waste that contains no soluble waste constituents and no decomposable waste. Such waste poses no threat to groundwater and little threat of nuisance, but could threaten surface waters if disposal methods were improper. The waiver condition required implementation of “good disposal practices,” generally aimed at site selection, erosion control, and waste policing to prevent decomposable materials from entering the site. In contrast, the inert waste as described in basin plans can contain soluble waste constituents in concentrations that degrade groundwater and decomposable waste that could create nuisance. It is more appropriate to regulate inert waste discharges that may degrade groundwater or cause nuisance with general or individual waste discharge requirements.

Board staff in practice has continued to apply this waiver solely to non-water soluble, non-decomposable inert solids as originally intended. Even so, it is not unusual to find decomposable waste at such sites from the discharger or from third parties who view the piled waste as a free dump site for their refuse. The waiver should be continued only as originally intended. To meet the original intent, solid waste suitable for waiver must contain no “free liquids” (as defined by Title 27, section 20164).

Examples of waste not suitable for waiver include the following: tires, semi-solid wastes (Title 27 section 20164), dewatered sludge (Title 27, section 20164 and section 20220(c)), liquid wastes (Title 27, section 20164), “nonhazardous solid waste” in (Title 27, section 20220(a)), and Ash (Title 27, section 20220(d)). Evidence indicates that fresh concrete solids may leach significant concentrations of

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hexavalent chromium and cannot be considered “inert,” though fully-cured concrete can be classified “inert.”

CONDITIONS OF CONTINUED WAIVER:

The waiver of WDRs for solid wastes should be continued with the following conditions:

- Wastes must be insoluble without decomposable solids, and contain no “free liquids” (as defined by Title 27, section 20164)
- The site must be well constructed and managed, with restricted access
- The site must be outside of natural or manmade drainage courses
- The discharge must be managed so as to prevent erosion of wastes into surface waters or drainage courses

6. TEST PUMPINGS OF FRESH WATER WELLS

Many public and private well owners need to periodically discharge potable or relatively contaminant-free water pumped when the well is developed or maintained. The water quality parameters of concern for these discharges are suspended material, turbidity, and chlorine, which are primarily a concern to surface water. Such water discharged to land poses almost no threat to groundwater because suspended material and turbidity are effectively filtered out as the water percolates through the vadose zone, and is normally of better quality than the shallow zone of underlying groundwater. Chlorine is quickly neutralized on contact with soil.

CONDITIONS OF CONTINUED WAIVER:

The waiver of RWDs and WDRs for test pumpings of fresh water wells should be continued with the following conditions:

- The pumping will not lead to the spread of any waste constituents
- No RWD should be necessary if a single (one-time) application to land without threat to water quality or of nuisance
- RWD should be required for extended or recurring discharge and if there is nuisance potential
- Extracted water quality must be as good as or better than underlying groundwater

14. SWIMMING POOL DISCHARGES

Pool discharges are low to high volume, infrequent discharges that are relatively free of waste constituents. Disposal of pool discharges in urban areas are regulated by municipalities that typically have engineered stormwater systems and may require a pool drainage permit before discharge. Areas that do not have engineered stormwater systems depend on land discharge for disposal of pool water. Direct flow of pool water onto land provides some treatment of the pool water before it enters into groundwater and is preferred over surface water discharges.

Swimming pool waters originate from local source waters but have elevated dissolved solids concentrations from evaporation and chemical addition. They may contain bacteria if insufficiently chlorinated and significant chlorine if over-chlorinated, but have little or no organic waste. No RWD is

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necessary as it is reasonable to expect that quality of swimming pool water is fairly uniform. Groundwater will be protected as discharges are of short duration and occur about once every three years, and attenuation in the soil column provides reasonable treatment. Discharge must be done in a manner that precludes erosion.

Filter backwash contains waste particles and sometimes clay and should not be discharged to land though it represents no water quality threat to underlying groundwater.

CONDITIONS OF CONTINUED WAIVER

The waiver of RWDs and WDRs for swimming pool waters should be continued with the following conditions:

- Discharge must be confined to property under control of the discharger without possibility of discharge to surface water
- Activity must be conducted in manner that precludes creation of a nuisance condition
- Activity must be infrequent

16. CONSTRUCTION

Dewatering Operations

Dewatering operations associated with construction projects that discharge to land instead of surface water are typically one-time, non-stormwater discharges of short duration. Non-storm water discharges include extracted groundwater and water collected from cofferdams or diversions. Land discharge may be to a terminal basin or used for irrigation or dust control. These discharges may be on site or to land in the same proximity, and with appropriate agreement to land owned by someone else.

Infiltration of water with quality equal to or better than underlying groundwater will not cause degradation but must be done in a manner that ensures there is no discharge into surface water drainage courses and respects property rights. If not infiltrated within 72 hours, ponded water must be managed to prevent nuisance conditions.

This is a sub-type of an existing waiver for construction, which has been conditional upon use of EWMPs.

CONDITIONS OF CONTINUED WAIVER:

The waiver of RWDs and WDRs for construction dewatering operations should be continued with the following conditions:

- Extracted water must be of the same or better quality than the underlying groundwater
- The impoundment or use area must pose low risk of nuisance
- Impoundment and use cannot cause erosion of sediment

Hydrostatic Testing

Hydrostatic testing is usually a one-time activity used to demonstrate the integrity of pipelines and pressure vessels. Testing may occur on new or existing pipelines and pressure vessels. Discharges of hydrostatic test water from new and potable water pipelines pose very little threat to groundwater quality from soluble constituents. Pipelines and tanks that have previously contained crude or refined oil and gas present a different situation.

Source waters for hydrostatic tests are local and, except for waste constituents picked up from the structure being tested, have like or better quality than underlying groundwater. The spent hydrostatic test waters may discharge to an impoundment for infiltration, or be used for irrigation water or dust control. These discharges may be on site or by agreement to land owned by someone else.

Water from a new pipe is in all likelihood relatively free of contaminants though some residual of metals, solvents or grease may be entrained in the test water. Water from existing pipelines may contain residual product if the pipeline is not part of an existing water distribution system. If hydrostatic testing waters are suspect, pre-discharge analytical testing must be performed. Any proposed discharge to land must be done in a manner that prevents discharge into surface water drainage courses and that respects property rights by retaining water onsite. Discharged water must infiltrate/evaporate within 72 hours so that the water does not remain ponded and result in nuisance conditions. If treatment is necessary this waiver is not applicable.

This is a sub-type of an existing waiver for construction, which has been conditional upon use of EWMPs.

CONDITIONS OF CONTINUED WAIVER:

The waiver of WDRs, and of RWDs in situations when no threat is obvious, for hydrostatic testing waters should be continued with the following conditions:

- Test water must be of the same or better quality than the underlying groundwater, excepting for sediment and other non-leachable constituents
- The impoundment or use area must pose low risk of nuisance
- The discharge must not be to surface water drainage courses
- Impoundment and use cannot cause erosion of sediment

17. AGRICULTURAL COMMODITY WASTES

This waiver allows expedient discharge of unsalvageable commodities to land under atypical situations. Because the Central Valley is one of the world's largest food producing regions, numerous scenarios can generate commodity waste. A typical commodity becomes waste due to culls, spoils, or contamination. Examples include unprocessed fruit, vegetables, and raw milk. Processed food and processed food residuals are not included in this type of waste (e.g., whey).²

² A separate existing waiver of food processing waste is not proposed for continuance due to widespread noncompliance in the past. General WDRs are being developed to regulate small food processing waste discharges to land.

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This waiver does not extend to dead animals or animal byproducts (i.e., flesh, organs, unprocessed hide, blood, bone, and marrow). The discharges of dead animals and animal byproducts to land have the potential to leach pathogens and the products of decomposition to groundwater. Further, the potential for nuisance odors is significant as dead animals and animal byproducts are capable of generating strong odors that may carry for several miles.

Commodities represent a farm product of value and waste represents the exception. Generally, if more than a few truckloads of discharge, it is a seasonal wasting of culls. More often, it is incident specific, such as an improper application of pesticide making a field product no longer suitable for human consumption. Other instances associated with a commodity becoming a waste include truck or train accidents, loss of refrigeration, or any of a variety of conditions resulting in spoilage. In most cases when reasonably fresh and uncontaminated, commodity waste may be used as cattle or swine feed.

This waiver should apply to small volume batch discharges of limited number that practice EWMPs. Sites may require berms, setbacks, and other measures to prevent discharge to surface water. The primary threat occurs from possible nuisance as decomposition occurs. Typically, the mitigation is to spread the waste over a reasonable area and plow it under as it begins to generate odors from decomposition.

CONDITIONS OF CONTINUED WAIVER

The waiver of WDRs and RWDs for agricultural commodity waste discharges should be continued with the following conditions:

- A RWD should not necessary if discharge is a limited (e.g., a one-time) application to land without threat to water quality or of nuisance. A RWD is necessary if an extended or recurring discharge with nuisance potential is proposed.
- Wastes must not be discharged in proximity to buildings occupied by people
- Discharger must implement EWMPs
- No processed food and processed food residuals (e.g., whey)
- Exclusion of dead animals and animal byproducts

18. INDUSTRIAL WASTES UTILIZED AS SOIL AMENDMENTS

At present, the Regional Board allows WDRs to be waived for a discharge of industrial wastes utilized for soil amendments “[w]here industry certifies its nontoxic content and BMP Ag applications used.” To minimize the need for close Regional Board oversight, an industrial waste used as a soil amendment must contain waste constituents that will be utilized by the soil and benefit crops grown from the soil, and not contain these waste constituents or other waste constituent in concentration that will degrade groundwater or pose risk of nuisance. For example, the discharge of used diatomaceous earth (a porous sedimentary rock composed of the frustules [silicate cell walls] of diatoms with good filter properties) and dried stillage leathers from wineries beneficially add organic matter and nutrients to soil. The discharger must define and implement EWMPs to preclude over-application and there must be sufficient motivation so that minimal reporting does not create an opportunity for noncompliance.

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Waiver of WDRs for discharge of caustic or acid solutions and material is not appropriate. While these solutions and materials may beneficially alter soil pH and add nutrients to the soil (e.g., nitrogen, potassium, sulfur, magnesium, and other macro and micronutrients) they can also contain undesirable concentrations of waste constituents (i.e., primarily salts) that can impact beneficial uses. Examples include: ion exchange wastewater, high strength clean-in-place (CIP) wastewater, and tartaric wastewater. Breakdown of discharger accountability (e.g., personnel changes, conflicting priorities) in managing application of the waste can cause significant impacts. These types of discharges, while they may have a benefit, need a higher level of regulatory oversight than what is practical under a waiver.

CONDITIONS OF CONTINUED WAIVER

The waiver of WDRs for industrial waste discharges as soil amendments should be continued with the following conditions:

- Waste is not hazardous as defined in Title 22 California Code of Regulations, Division 4.5, Article 11
- Waste is incorporated into the soil within sufficient time (72 hours) to prevent nuisance conditions (i.e., flies and odors)
- Waste includes no caustic or acid solutions or materials
- Dilution of waste is proscribed as a means to achieve compliance with the other conditions of this waiver
- Discharger must implement EWMPs to prevent discharge to waters of the state
- Waste application is controlled to prevent direct constituent release into surface waters via tail water from the field
- All waste constituents must be shown to be consumed as a benefit in soil on which it is applied and/or by crops which will be commercially harvested, or to be no greater in concentration than in underlying groundwater

WATER RECYCLING FOR CONSTRUCTION PROJECTS

The Regional Board and State Board, as well as the Legislature, have long encouraged use of recycled water. During the severe drought of 1976-1977 the Regional Board adopted Resolution No. 77-69, Emergency Use of Treated Wastewater, which waives water recycling requirements (WRRs) provided that: a) the Reclaimed water will comply with any applicable criteria provided by Title 22, CCR, section 60301 et seq., (hereafter Title 22); b) the proposed uses receive prior approval from the state and local health departments and the Executive Officer; and c) the proposed use is for one year or less in duration. A General Order for water reclamation is under development to streamline the permitting of reclaimed water, and emergency waivers should no longer be necessary.

During the late 1970s, necessity drove the increased use of reclaimed water in construction projects, and it too was waived as emergency use. Unlike other types of reclamation (e.g., green belt water, power plant feed water, etc.), use of reclaimed water for construction activities typically are project-specific discharges of short duration. Title 22 contains criteria for a number of uses of reclaimed water, including construction. Section 60307(b) states that disinfected secondary-23 disinfected recycled water (as defined by section 60301.225) may be used for backfill consolidation around nonpotable piping, soil compaction, concrete mixing, and dust control. Reclaimed water typically must be trucked to a

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construction site. The amounts used are restricted to that necessary to accomplish sound construction, so runoff and infiltration are not likely.

Waiver of WRRs for construction projects will facilitate reuse of reclaimed water by expediting the process. Restricting use to wastewater that has been treated to Title 22 standards and adherence to Title 22 use restrictions will protect public health. A potential user would need to submit a written request that includes specific project use dates and written approval from the local health department and the State Department of Health Services that the proposed project complies with all local and State health requirements for reclaimed water use, including any monitoring required to demonstrate compliance with Title 22.

CONDITIONS OF CONTINUED WAIVER

The waiver of WRRs for use of reclaimed water on construction projects should be continued with the following conditions:

- Use limited to water reclaimed to Title 22 standards
- Use in accord with Title 22 restrictions
- Use as approved by local and state health departments
- Use certified by user

STATEWIDE “LOW-THREAT” GENERAL ORDER

The SWRCB is drafting a statewide General Order for “low-threat” discharges to land. The categories proposed in the draft General Order are nearly identical to those types described above for continued waiver. However, conditions in the proposed waiver are more restrictive than the General Order’s and are meant to limit the set of discharges eligible for waiver to only those representing the lowest threat. Discharges that are “low-threat” but require a higher level of oversight may be permitted using the General Order. The discharge categories in the General Order are as follows:

- Water Well Development Discharge
- Monitoring Well Purge Water Discharge
- Boring Waste Discharge
- Water Main, Storage Tank, and Hydrant Flushing Discharges
- Pipelines and Tank Hydrostatic Testing Discharges
- Swimming Pool and Landscape Drainage Discharges
- Small Temporary Dewatering Projects
- Small Inert Solid Waste Disposal Operations
- Small Volume Evaporative Cooling Water Discharge

Although a discharge may be eligible for a waiver or coverage under the General Order the Executive Officer must have full discretion on which regulatory mechanism to apply. The Executive Officer’s discretion in these instances is necessary as not all discharges or dischargers require the same level of oversight. For instance a waiver to a discharger with a record of noncompliance is inappropriate and if the privilege of discharge is continued it should instead be by means of a general or individual WDRs. If violations are found during the active life of a waiver, the Executive Officer may revoke the waiver and require the discharger to cease discharge and seek coverage under the General Order or individual WDRs, or initiate formal enforcement.

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NOT COVERED BY THE PROPOSED RESOLUTION

Staff proposes that the remaining waste discharge types waived by Resolution No. 82-036 not be renewed as part of this action. There are several reasons why a particular waste type is not proposed for waiver renewal. As previously noted, waivers with complex issues have and are being evaluated as separate Regional Board actions. For others, there is no longer any practical need. In some cases, use of a waiver has not been effective as past experience has shown that without more intense Regional Board oversight impacts to water quality or nuisance conditions occur. The following table lists the waste discharge types not proposed for renewal and the reason:

Type of Waste Discharge	Reason
3. Clean oil containing no toxic materials	Never used. Not necessary if no waste is discharged.
7. Storm water runoff	Storm water runoff to surface water covered by NPDES Program. Rare instances of storm water runoff being a threat to groundwater can be covered on case-by-case basis.
8. Erosion from development	Covered by NPDES Program.
9. Pesticide rinse waters from applicators	Processed as a separate Regional Board action.
10. Confined animal wastes	Being evaluated under separate Regional Board action.
11. Minor stream channel alterations and suction dredging	Covered by Army Corps of Engineers Section 404 Permitting Program and Regional Board Section 401 Water Quality Certification Program.
12. Small, short-term sand and gravel operations	A "low-threat" discharge to land General Order is under development.
13. Small metals mining operations	Possibly include in a "low-threat" discharge to land General Order.
15. Food processing wastes spread to land	Numerous instances of poor management at food processing waste disposal sites indicate the necessity for greater oversight.
19. Timber harvesting	Being evaluated as a separate Regional Board action.
20. Minor hydro projects	No demand.
21. Irrigation return water	Being evaluated as a separate Regional Board action.
22. Projects where application for Water Quality Certification is required	Covered by Army Corps of Engineers Section 404 Permitting Program and Regional Board Section 401 Water Quality Certification Program.
23. Septic tank/leachfield systems	On 27 September 2002 Assembly Bill 2481 extended the waiver for onsite sewage treatment systems to 30 June 2004.

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RECOMMENDATION

1. Continue wavier of RWDs and WDRs as described where recommended for the types of discharge above to 31 January 2008.
2. Require fee for TTWQ3C as a condition of waiver renewal for every discharge for which a waiver is determined by RWD as appropriate, as well as submittal of reports as determined appropriate by the Executive Officer.
3. Allow waivers for other types to expire except as continued by separate Regional Board action.

SJK/sjk 12/6/02

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

RESOLUTION NO. _____

APPROVING
WAIVER OF REPORTS OF WASTE DISCHARGE AND
WASTE DISCHARGE REQUIREMENTS
FOR SPECIFIC TYPES OF DISCHARGE
WITHIN THE
CENTRAL VALLEY REGION

The California Regional Water Quality Control Board, Central Valley Region, (hereafter Regional Board) finds that:

WHEREAS, California Water Code (CWC) Section 13260(a) requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the State, other than into a community sewer system, shall file with the appropriate regional board a report of waste discharge ("report of waste discharge" or "RWD") containing such information and data as may be required by the Regional Board; and,

WHEREAS, the Regional Board has a statutory obligation, pursuant to CWC Section 13263, to prescribe waste discharge requirements except where the Regional Board finds that a waiver of waste discharge requirements for a specific type of discharge is not against the public interest pursuant to CWC Section 13269; and,

WHEREAS, CWC Sections 13263(b) and 13269 authorize the Regional Board to waive RWDs and WDRs, respectively, for specific types of discharge where such a waiver is not against the public interest; and

WHEREAS, CWC Section 13269 provides that any such waiver of waste discharge requirements shall be conditional and may be terminated at any time by the Regional Board; and

WHEREAS, CWC Section 13269 provides, in part, that these waivers expire effective January 1, 2003, that new waivers of waste discharge requirements for specific types of discharges must be renewed at minimum every five years, and that prior to renewing any waiver, the Regional Board shall review the terms of the waiver at a public hearing and shall determine whether the discharge should be subject to general or individual WDRs; and

WHEREAS, the Regional Board, in accordance with CWC Section 13269, waived waste discharge requirements for Emergency Use of Treated Wastewater as set forth in Regional Board Resolution No. 77-69 and for 23 other types of discharges as set forth in Regional Board Resolution No. 82-036; and

WAIVER OF RWD AND WDRS FOR SPECIFIC TYPES OF DISCHARGE
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WHEREAS, the Regional Board, acting as the lead agency for this project under the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) (CEQA), determined that the adoption of Resolution 82-036 waiving WDRs for 23 categories of discharges would not cause a significant environmental impact and approved a Negative Declaration dated 23 December 1981 in accordance with CEQA; and

WHEREAS, the Regional Board adopted a Negative Declaration when it adopted Resolution 82-036 and is not required to prepare a subsequent environmental impact report or negative declaration in renewing certain types of discharges included in Resolution 82-036 consistent with Title 14 California Code of Regulations Section 15162; and

WHEREAS, the Regional Board, in compliance with CWC Section 13269, reviewed the previously issued waivers set forth in Resolution 77-69 and 82-036 and has determined that the waiver for certain types of discharges should be renewed; and

WHEREAS, certain categories of discharge included in Resolution 77-69 and Resolution 82-036 pose a low threat to the quality of waters of the state; and

WHEREAS, the Regional Board proposes to renew the waiver of WDRs but not the requirement to submit RWDs for certain categories of discharges that pose a low threat, including:

- Air conditioner, cooling and elevated temperature waters,
- Minor dredge operations,
- Solid wastes,
- Construction activities,
- Agricultural commodity wastes,
- Industrial wastes utilized as soil amendments, and
- Water reclamation for construction purposes; and

WHEREAS, the Regional Board proposes to renew the waiver of WDRs and the requirement to submit RWDs for certain categories of discharges that pose a low threat, including:

- Drilling muds,
- Test pumpings of fresh water wells,
- Septic tank/leachfield systems, and
- Swimming pool discharges; and

WHEREAS, waiver of the requirement to file a RWD and/or issuance of WDRs for waste discharges that will cause no or insignificant impairment of water quality and that pose little risk of creating a nuisance condition is not against the public interest as it reduces the cost of activities that produce innocuous or small amounts of waste, is protective of the environment, and allows Regional Board staff to use resources to address waste discharges that have significant potential to degrade water quality or create nuisance; and,

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WHEREAS, the proposed waiver is consistent with State Water Resources Control Board Resolution No. 68-16 (Statement of Policy with Respect to Maintaining High Quality of Waters in California) in that the waiver of waste discharge requirements imposes conditions to prevent impacts to water quality and authorizes no degradation of water quality, will not unreasonably affect beneficial uses of water, and will not result in water quality less than that prescribed in plans and policies; and,

WHEREAS, the Regional Board conducted a public hearing on _ January 2003 in Sacramento, California, and considered all testimony and evidence concerning this matter;

THEREFORE BE IT RESOLVED, in accordance with CWC Section 13269, the Regional Board adopts the “Waiver of Reports of Waste Discharge and Waste Discharge Requirements for Specific Types of Discharge” as set forth in Attachment A, hereafter typically referred to as the “General Waiver;” and

BE IT FURTHER RESOLVED, the Regional Board waives the requirements to submit an RWD and filing fee and to obtain WDRs for discharges of the following types that comply with the conditions set forth in Attachment A; and

BE IT FURTHER RESOLVED, the Regional Board waives the requirement to obtain WDRs, but not the requirement to submit an RWD and filing fee, for discharges of the following types that comply with the conditions set forth in Attachment A; and

BE IT FURTHER RESOLVED, that discharges that result from emergency work or emergency projects as described under CWC section 13269(c) are not affected by this action; and

BE IT FURTHER RESOLVED, the Regional Board, based on the testimony received at the aforementioned hearing, and the above-noted facts and findings, finds that waiver of waste discharge requirements for certain specific types of dischargers would not be against the public interest provided that dischargers subject to such waiver:

- (a) comply with the conditions for waiver of waste discharge requirements as set forth in the Waiver; and
- (b) file with the Regional Board the required Report of Waste Discharge and filing fee as set forth in the Waiver; and
- (c) comply with applicable State Board and Regional Board plans and policies; and

BE IT FURTHER RESOLVED, that for those discharges requiring submittal of an RWD, the discharger must submit the fee specified in Title 22 California Code of Regulations section 2200, for a threat and complexity of “3C”; and

WAIVER OF RWD AND WDRS FOR SPECIFIC TYPES OF DISCHARGE
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BE IT FURTHER RESOLVED, that upon renewal of this waiver of WDRs and/or RWDs, the discharger subject to the waiver shall be notified in writing and shall be required to submit the prescribed filing fee; and

BE IT FURTHER RESOLVED, the Regional Board, based on the above-noted facts and findings, determines that it is not necessary at this time to adopt individual or general waste discharge requirements for waste discharges related to the types of discharges contained in Attachment A that are conducted in accordance with the conditions specified in the General Waiver because these types of discharges are of low threat and Regional Board resources should focus on higher threat discharges; and

BE IT FURTHER RESOLVED, the discharge of any waste not specifically regulated by the General Waiver is prohibited unless the discharger complies with CWC Section 13260(a) and the Regional Board either issues waste discharge requirements pursuant to CWC Section 13263 or an individual waiver pursuant to CWC Section 13269 or the time frames specified in CWC Section 13264(a) have elapsed; and

BE IT FURTHER RESOLVED, this General Waiver shall not create a vested right and all such discharges shall be considered a privilege, as provided for in CWC Section 13263;

BE IT FURTHER RESOLVED, pursuant to CWC Section 13269, this action waiving the issuance of waste discharge requirements for certain specific types of discharges: (a) is conditional, (b) may be terminated at any time, (c) does not permit an illegal activity, (d) does not preclude the need for permits which may be required by other local or governmental agencies, and (e) does not preclude the Regional Board from administering enforcement remedies (including civil liability) pursuant to the CWC;

BE IT FURTHER RESOLVED, the Executive Officer or Regional Board may terminate the applicability of the General Waiver described herein as to any type of discharge or individual discharger at any time when such termination is in the public interest and/or the activity could affect the quality or beneficial uses of the waters of the State; and

BE IT FURTHER RESOLVED, this General Waiver shall become effective on 31 January 2003, and shall expire on 31 January 2008, unless terminated or renewed by the Regional Board; and

BE IT FURTHER RESOLVED, as provided by CWC Section 13350(a), any person may be civilly liable if that person in violation of a waiver condition or waste discharge requirements, intentionally or negligently discharges waste, or causes waste to be deposited where it is discharged, into the waters of the State and creates a condition of pollution or nuisance; and

BE IT FURTHER RESOLVED, the Regional Board may review the General Waiver at any time and may modify or terminate the General Waiver in its entirety, as applicable for a specific type, or for individual dischargers, as is appropriate.

RESOLUTION NO. 5-2002-XXX

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WAIVER OF RWD AND WDRS FOR SPECIFIC TYPES OF DISCHARGE
WITHIN THE CENTRAL VALLEY REGION

I, THOMAS R. PINKOS, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Valley Region, on 31 January 2003.

THOMAS R. PINKOS, Executive Officer

SJK/sjk 12/5/02

APPENDIX A
WAIVER OF REPORTS OF WASTE DISCHARGE AND
WASTE DISCHARGE REQUIREMENTS
FOR SPECIFIC TYPES OF DISCHARGE

California Water Code (CWC) Section 13269 authorizes the Regional Water Quality Control Board, Central Valley Region (Regional Board) to waive the requirement to obtain waste discharge requirements and to submit reports of waste discharge as to a specific type of discharge if the waiver is not against the public interest and conditional. The Regional Board, in Resolution No. _____, adopted this “Waiver of Reports of Waste Discharge and Waste Discharge Requirements for Specific Types of Discharge” to identify several specific types and set forth appropriate conditions of discharge.

Each person who discharges a waste type identified herein and who meets the conditions specified herein for that type need not obtain waste discharge requirements and may commence discharge forthwith of that waste type provided:

1. The discharger first submits, if specified below for the discharge type or situation, a filing fee and report of waste discharge that documents the discharge will comply with the conditions of waiver, and obtains written approval of waiver from the Executive Officer.
2. The discharger complies with the conditions in this document specific to the type of discharge and with the following general provisions:
 - a. The discharge shall neither create nor threaten to create a condition of nuisance, as defined by CWC Section 13050.
 - b. The discharge shall neither degrade the quality of waters of the state nor create or threaten to create a pollution and contamination as defined by CWC section 13050.
 - c. The discharge of any waste not specifically regulated by this waiver is prohibited unless the discharger obtains waste discharge requirements or other permission from the Regional Board for that waste.
 - d. The discharger shall allow Regional Board staff reasonable access onto the affected property for the purpose of performing inspections to determine compliance with waiver conditions.
 - e. The discharger shall submit technical and monitoring reports as specified by the Executive Officer and consistent with California Water Code Section 13267.
 - f. Discharge of waste to surface waters or tributaries of surface waters is prohibited.
 - g. The discharger shall comply with all federal, state, county, and local laws and regulations pertaining to the discharge.
 - h. This waiver expires on 31 January 2008. A discharger of waste subject to a report of waste discharge shall submit a new report of waste discharge and filing fee before then for consideration of renewal of the waiver, or cease discharge.
 - i. It shall not be a defense for a discharger in an enforcement action that it would have been necessary to halt or reduce its activity in order to maintain compliance with conditions of waiver.

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Type of Waste Discharge ^{1,2}	Waiver of RWD	Waiver of WDRs	Conditions
1. Air conditioner, cooling and elevated temperature waters discharged to land		Ö	<ul style="list-style-type: none"> Waste constituent concentrations cannot be greater than in underlying groundwater, are reliably attenuated before infiltrating to groundwater Rate and volume of discharge must be easily contained on-site BOD must be consistently less than 30 mg/L without treatment and, if impounded, cannot create a loading rate greater than 10 #/acre/day Additives, if any, must be used in accordance with manufacturer's guidelines and capable of being easily attenuated
2. Drilling muds	Ö	Ö	<ul style="list-style-type: none"> Drilling mud additives must be nonhazardous as defined in Title 22 California Code of Regulations (CCR), Division 4.5, Article 11 Buried drilling muds must first be dried then the site restored to pre-sump conditions Sump design must assure no overflow of drilling muds during active drilling
4. Minor dredge operations		Ö	<ul style="list-style-type: none"> Amount of dredged material discharged must be 1000 cubic yards or less Discharged dredged material cannot contain waste constituents in hazardous concentrations as defined California Code of Regulations, Division 4.5, Article 11

¹ The numbering system used is a continuation of that from Resolution 82-036 as this Resolution is renewing waiver categories already established by the Regional Board, most of which were established under Resolution 82-036.

² As the title headings represent broad categories, see the Staff Report for a detailed discussion on intent.

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Type of Waste Discharge ^{1,2}	Waiver of RWD	Waiver of WDRs	Conditions
5. Solid wastes		Ö	<ul style="list-style-type: none"> Wastes must be insoluble and not decomposable solids containing no free liquids (as defined by Title 27, section 20164) The site must be well constructed and managed, with restricted access The site must be outside of natural or manmade drainage courses
6. Test pumpings of fresh water wells	Ö	Ö	<ul style="list-style-type: none"> The pumping will not lead to the spread of any waste constituents No RWD should be necessary if a single (one-time) application to land without threat to water quality or of nuisance RWD should be required for extended or recurring discharge and if there is nuisance potential Extracted water quality must be as good as or better than underlying groundwater
14. Swimming pool discharges	Ö	Ö	<ul style="list-style-type: none"> Discharge must be confined to property under control of the discharger Activity must be conducted in manner that precludes creation of a nuisance condition Activity must be infrequent
16. Construction – dewatering operations	Ö	Ö	<ul style="list-style-type: none"> Extracted water must be of the same or better quality than the underlying groundwater The impoundment or use area must pose low risk of nuisance Impoundment and use cannot cause erosion of sediment

WAIVER OF RWD AND WDRS FOR SPECIFIC TYPES OF DISCHARGE
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Type of Waste Discharge ^{1,2}	Waiver of RWD	Waiver of WDRs	Conditions
16. Construction – hydrostatic testing	Ö	Ö	<ul style="list-style-type: none"> • Test water must be of the same or better quality than the underlying groundwater, excepting for sediment and other non-leachable constituents • The impoundment or use area must pose low risk of nuisance • Impoundment and use cannot cause erosion of sediment
17. Agricultural commodity wastes	Ö	Ö	<ul style="list-style-type: none"> • A RWD should not necessary if discharge is a limited (e.g., a one-time) application to land without threat to water quality or of nuisance. A RWD is necessary if an extended or recurring discharge with nuisance potential is proposed. • Wastes must not be discharged in proximity to buildings occupied by people • Discharger must implement EWMPs • No processed food and processed food residuals (e.g., whey) • Exclusion of dead animals and animal byproducts

WAIVER OF RWD AND WDRS FOR SPECIFIC TYPES OF DISCHARGE
WITHIN THE CENTRAL VALLEY REGION

Type of Waste Discharge ^{1,2}	Waiver of RWD	Waiver of WDRs	Conditions
18. Industrial wastes utilized for soil amendments		Ö	<ul style="list-style-type: none"> • Waste is not hazardous as defined in Title 22 California Code of Regulations, Division 4.5, Article 11 • Waste is incorporated into the soil within sufficient time (72 hours) to prevent nuisance conditions (i.e., flies and odors) • Waste includes no caustic or acid solutions or materials • Dilution of waste is proscribed as a means to achieve compliance with the other conditions of this waiver • Waste application is controlled to prevent direct constituent release into surface waters via tail water from the field • All waste constituents must be shown to be consumed as a benefit in soil on which it is applied and/or by crops which will be commercially harvested or to be no greater than in underlying groundwater
Water reclamation for construction projects		Ö ³	<ul style="list-style-type: none"> • Use limited to water reclaimed to Title 22 standards • Use in accord with Title 22 restrictions • Use as approved by local and state health departments • Use certified by user

³ Waiver of Water Recycling Requirements (WRRs)